

13-CV-05188-ORD

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LEONARD L. SIMPSON and NELLIE-MAY
SIMPSON, a married couple,

Plaintiffs,

v.

LADY NELL, Official No. 941807, its Engines,
Machinery, Appurtenances, etc.,
In Rem;

and

WIN CHANG INC., a Washington corporation,
In Personam,

Defendants.

IN ADMIRALTY

Case No. *013-5188 RJB*

~~[PROPOSED]~~ ORDER
APPOINTING SUBSTITUTE
CUSTODIAN, FOR PERMISSION
TO MOVE THE VESSEL, AND
FOR BOARDING AND
INSPECTION

Plaintiffs, Leonard L. Simpson and Nellie-May Simpson, by and through their
attorney, John E. Casperson of Holmes Weddle & Barcott, P.C., having appeared, now
make the following recitals:

1. On March 12, 2013, a complaint herein was filed praying that the
defendant vessel LADY NELL, Official No. 941807, its engines, machinery, and
appurtenances, etc. ("Vessel"), be condemned and sold to pay Plaintiffs's claims and for
other proper relief.

2. In the immediate future, the Clerk of this Court is expected to issue a
warrant for arrest of the Vessel, commanding the United States Marshal for this District

1. to arrest and take into custody the Vessel and to detain the same in its custody until
2. further order of this Court respecting same.

3. 3. It is contemplated that the United States Marshal will seize the Vessel
4. forthwith. Custody by the United States Marshal requires the services of one or more
5. keepers at charges substantially in excess of those to be made by the substitute custodian
6. alone, not including charges for moorage and the other services usually associated with
7. safekeeping vessels similar to the defendant Vessel.

8. 4. The Vessel is currently located at Ilwaco Marina, WA. Plaintiffs are
9. agreeable to allow Matt Schneider to assume the responsibility of safekeeping the Vessel,
10. and Mr. Schneider has consented to act as it's custodian until further order of this Court.
11. Mr. Schneider has also consented to move the Vessel from its current location to a secure
12. suitable marine facility in LaPush, Washington where the Plaintiffs, the former owners of
13. the Vessel, can assist in providing for its care and keeping for security purposes.

14. 5. Mr. Schneider, by certification submitted herewith and made a part hereof,
15. avers that he can supervise the defendant Vessel at a charge of \$20.00 per day, and that he
16. is the beneficiary of insurance, for damage sustained by third parties due to negligence
17. committed during custody through the United States Marshal's office. Further, in said
18. certification substitute custodian accepts, in accordance with the terms of this order,
19. possession of the defendant Vessel, its engines, machinery, and appurtenances, etc.,
20. which is the subject of the action herein.

21. 6. In consideration of the United States Marshal's consent to the appointment
22. of Mr. Schneider as substitute custodian, Plaintiffs agrees to release the United States and
23. the United States Marshal from any and all liability and responsibility arising out of care
24. and custody of the Vessel, from the time the United States Marshal transfers possession
25. of the Vessel over to said substitute custodian, and Plaintiffs further agrees to hold
26.

1. harmless and indemnify the United States and the United States Marshal from any and all
2. claims whatsoever arising out of the substitute custodian's possession and safekeeping.

3. THEREFORE, IT IS ORDERED that the United States Marshal for the District of
4. Alaska is authorized, upon seizure of the Vessel, pursuant to Warrant for Arrest, to
5. surrender the possession thereof to Mr. Schneider as substitute custodian named herein,
6. and that upon such surrender the United States Marshal shall be discharged from the
7. duties and responsibilities for the safekeeping of the Vessel and held harmless from any
8. and all claims arising whatever out of said custodial services.

9. IT IS FURTHER ORDERED that Mr. Schneider is appointed custodian of the
10. Vessel and shall retain the Vessel in his custody for possession and safekeeping until
11. further order of this Court and that Mr. Schneider may move the Vessel from its current
12. location to a secure facility in LaPush, Washington where the Plaintiffs as prior owners
13. and having an interest in preserving the value of the Vessel as collateral, may provide
14. additional security and safekeeping, subject at all times to the order and direction of the
15. custodian. All costs for such movement and safekeeping shall be paid by Plaintiffs, and
16. may, upon further order of this Court, be deemed administrative costs herein.


17. IT IS FURTHER ORDERED that the substitute custodian may permit boarding
18. and inspection of the Vessel by marine surveyors, Plaintiffs, and prospective purchasers
19. in order to protect and preserve the Vessel and to determine the Vessel's condition and
20. value. All costs of such boardings and inspections shall be paid by Plaintiffs and may,
21. upon further order of this Court, be deemed administrative costs herein. All persons
22. entering on board the Vessel shall execute a waiver and release in the form attached
23. hereto.

24. IT IS FURTHER ORDERED that Plaintiffs' attorney serve a copy of this order on
25. the owner of the Vessel.

26.

1. It is further requested that the Clerk of this Court deliver three certified copies of
2. this order to the United States Marshal forthwith.

3.
4. DATED this 13 day of March, 2013.

5. 
6. UNITED STATES DISTRICT JUDGE
7.

8.
9. Presented By:

10.
11. HOLMES WEDDLE & BARCOTT, P.C.
12.

13.
14. s/ John E. Casperson
15. John E. Casperson, WSBA #14292
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20. Email: jcasperson@hwb-law.com
21. Attorney for Plaintiffs

22. Approved for Entry:

23. UNITED STATES MARSHAL
24. Western District of Washington

25. G:\827\16583\LADY NELL\Order Subst Cust.doc
26.